United Nations S/AC.37/2004/(1455)/19

Security Council

Distr.: General
26 March 2004

Original: English

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 26 March 2004 from the Permanent Mission of Nepal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kingdom of Nepal to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report submitted by His Majesty's Government of Nepal, pursuant to Security Council resolution 1455 (2003) (see annex).

04-30264 (E) 260404

Annex to the note verbale dated 26 March 2004 from the Permanent Mission of Nepal to the United Nations addressed to the Chairman of the Committee

Report Submitted to the Security Council Committee Established Pursuant to Resolution 1267 (1999)

1. Introduction

Nepal vehemently condemns terrorism in all its forms and manifestations. Since Nepal herself is suffering from terrorist activities, controlling and combating terrorism has been one of the top priorities of His Majesty's Government of Nepal (HMG/N). At the international level HMG/N has become party to the following anti-terrorism conventions:

- Convention on Offenses and Certain Other Acts Committed on Board Aircraft, 1963.
- Convention for Suppression of Unlawful Seizure of Aircraft 1970.
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971.
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, 1973.
- Convention Against the Taking of Hostages, 1979.
- Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988.

In addition, HMG/N has also signed the International Convention for the Suppression of Terrorist Bombings 1997 and is actively contemplating to join the remaining instruments. Similarly, at the regional level, HMG/N has become party to the SAARC Regional Convention on the Suppression of Terrorism, 1998 and has recently signed the SAARC Additional Protocol on the Suppression of Terrorism adopted by the Twelfth SAARC Summit held in Islamabad in January 2004.

HMG/N has already enacted various laws in this regard. She has promulgated the Terrorism and Disruptive Activities (Control and Punishment) Act 2002 to specifically combat the scourge of terrorism in view of the country's problem of terrorism as well as various Security Council Resolutions including 1373 (2001). This report is, therefore, submitted to the United Nations Security Council Committee established pursuant to Resolution 1267 (1999) in compliance with the provisions of the Security Council Resolution 1267 (1999) of 15 October 1999, 1333 (2000) of 19 December 2000, 1363 (2001) of 30 July 2001, 1390 (2002) of 16 January 2002, 1452 (2002) of 20 December 2002, 1455 (2003) of 17 January 2003 and 1526 (2004) of 30 January 2004.

Consolidated List

- There are no reported activities of Usama Bin Laden, Al-Qaida, the Taliban and their associates in Nepal. Nepal herself is faced with the menace of internal Maoist violence. All her efforts are geared towards combating the activities of all terrorist networks including the Maoist through the effective deployment of Royal Nepalese Army, the Nepal Police and the Armed Police forces.

- The names of individuals and entities contained in the list of 1267 Committee have been maintained by all the immigration check points including the Tribhuvan International Airport, the only international airport in the country through which all air travelers come to Nepal. The Home Ministry and the Interpol Section of the Police Headquarters also maintain and update the 1267 Committee's list through internet. The Home Ministry monitors from time to time the implementation of the list by making available the updated list to the land immigration check points where there are no installed computer facilities. The Finance Ministry undertakes the financial supervision of the accounts of the individuals and entities contained in the list through the mandatory instructions to the Central Bank (Nepal Rastra Bank). Nepal Rastra Bank is empowered by the Nepal Rastra Bank Act, 2002 to supervise the transactions of all the commercial banks and the financial institutions operating in the country. Moreover, as banks and financial institutions require account holders to produce Nepalese Citizenship Certificate as a proof of Nepali Citizen at the time of opening almost all types of accounts, the penetration by foreign terrorists is evidently less likely.

- The Land Immigration Check Posts lack the computerized facilities. They have been facing problems in tracing the names of the terrorists contained in the 1267 Committee's List through manual process.

- The Nepalese authorities have so far not found any individuals/entities associated with the Taliban, the Al-Qaida and the Usama Bin Laden inside the territory of the Kingdom of Nepal nor have found anybody operating on their behalf. His Majesty's Government has declared Nepal Communist Party-Maoist (CPN-Maoist) and its activists terrorists who have unleashed unspeakable violence on the civilians and security personnel for the last eight years.

- No listed individuals or entities have brought any lawsuit or engaged in legal proceedings against any authority of His Majesty's Government of Nepal for inclusion of their names in the list.

- Authorities of His Majesty's Government have not identified any of the listed individual as nationals or residents of the Kingdom of Nepal. HMG/N has no information about the individuals or entities not already included in the List.

The Terrorism and Disruptive Activities (Control and Punishment) Act, 2002 is a sweeping anti-terrorism law which prohibits any terrorist activities. The Act has identified the following activities as terrorist activities:

- Any act or plan of using any kinds of arms, grenades or explosives, or any other equipment or goods with the objective of affecting or hurting sovereignty

or the security and law and order of the Kingdom of Nepal or any part thereof or the property of the Nepalese diplomatic missions abroad thereby causing damage to property at any place or any act causing loss of life or dismemberment or injury or setting fire or hurting physically and mentally, or any act of poisoning goods of daily consumption causing loss of life or injury, or any other aforesaid acts thereby causing panic among the people in motion or assembled;

- Acts of intimidation or terrorizing individuals at any place or in any vehicle or abducting them or creating terror among them by threatening to abduct them from vehicles and places or abduction of people traveling on such vehicles as well as activities like taking the life of others, causing physical mutilation, injury and harm or causing other types of damage by using substances mentioned in the relevant section in that connection or threatening to use them, or acts like the production, distribution, accumulation, peddling, import and export, marketing or possession or installation of any kind of arms and ammunition or bombs or explosives substances or any assistance in this connection;
- Acts of gathering people or giving training for this purpose;
- Any other acts aimed at creating and spreading fear and terror in public life;
- Acts such as extortion of cash or kind or looting of property for this purpose forcibly raising cash or kind or looting property in pursuit of the said purpose;
- Any attempt or conspiracy to engage in terrorist or disruptive activity, or to encourage or force anyone to take up such activity, gathering more than one individual for such purpose, constituting any group to the same end, or assigning anyone to such activity or participating in such activity with or without pay or engaging in publicity or such activity, causing obstruction to government communications system, or giving refuse to any individual engaged in terrorist or disruptive activity, or hiding any person doing any of these things.

The following provisions have been made in the Act to address terrorist activities:

- Anyone indulging in crime in Nepal while residing abroad will also be subject to punishment.
- The Government can declare a terrorist affected area or terrorist individuals.
- House arrest can be used to prevent any terrorist in accordance with the disruptive act.
- Cases will be heard in a court constituted or designated by His Majesty's Government.
- Arrangements will be made for reasonable expenses for treatment and compensation in case of the maiming or death or security personnel or police assigned to control or investigate terrorist and disruptive activities.
- Cases instituted under this ordinance will not be subject to any statute or limitation.

- Individuals arresting or helping in the arrest of any terrorist will be suitably awarded.

The HMG/N is in the process of amending, updating and improving the Terrorism and Disruptive Activities (Control and Punishment) Act in accordance with the Constitution of the Kingdom of Nepal 1990.

2. Financial and Economic Assets Freeze

The Nepal Rastra Bank Act, 1955 has now been replaced by Nepal Rastra Bank Act, 2002. Under this Act, Nepal Rastra Bank has full powers to regulate the functions and activities of commercial banks and financial institutions.

For the purpose of regulation, the Nepal Rastra Bank may frame rules and by-laws on matters, which the Bank deems appropriate and issue necessary orders, directives, and circulars and it shall be the duty of the concerned commercial banks and financial institutions to abide by such rules, by-laws, order, directives and circular.

The Nepal Rastra Bank may issue necessary directives to commercial banks and require them to submit particulars on the following subjects:

- Books and accounts, profit and loss account, balance sheet and off-balance sheet, and statements of income and expenses.
- Prohibitions, restrictions or conditions concerning specific types or forms of credit or investments, loan and investment in excess of the ceiling prescribed by the Bank, risk bearing commitment, position of foreign exchange, payment and electronic and other means of payment.
- Other particulars and documents prescribed by the Bank.

Furthermore, His Majesty's Government has recently promulgated on Ordinance (2004) that brings under its umbrella all banks and other financial institutions. The commercial banks and financial institutions are obliged to abide by the orders of the Central Bank including the asset freeze of individuals or entities involved in the terrorist activities.

Likewise, the Terrorism and Disruptive Activities Control and Punishment Act 2002 has made provisions for seizing all the properties (movable and immovable including cash) of the persons who commit crime under this Act.

The Ministry of Finance of His Majesty's Government instructs the Nepal Rastra Bank to freeze immediately the assets of individuals or entities involved in or associated with the terrorist organizations including the Taliban, Usama Bin Laden and the Al-Quaida networks as when such requests for freezing of assets are received from the UN Security Council Committee established pursuant to resolution 1267 (1999). His Majesty's Government has so far fully acted on the requests of the said Committee for freezing the assets of the individuals or entities involved in terrorism. The commercial banks and financial institutions operating in Nepal have responded that no account exists in Nepal of the individuals and entities contained in the list of the 1267 Committee.

In addition, HMG/N is seriously engaged in introducing an anti-money laundering law as an economic policy package for which some preliminary work is already underway. With the adoption of such law in the near future, the terrorist activities would be quickly traced out and contained as soon as any information to this effect is received.

3. Travel Ban

The Immigration Act, 1992, the Civil Aviation Act, 1958 and the Aviation Safety (Arrangement) Regulation, 1990 provides for the ban on the entry into or the transit through the territory of the Kingdom of Nepal or any foreign nations engaged in the crimes in accordance with the existing laws of Nepal. This also applies to the individuals included in the List of the 1267 Committee. The provisions of the said Acts also ban the landing and the over-flight of the aircrafts owned and operated by the individuals or entities in the said List.

The Ministry of Home affairs, the Interpol Section of the Nepal Police Headquarters and the Tribhuvan International Airport maintain a computerized information of the individuals or entities contained in the List of the 1267 Committee. Since the Tribhuvan International Airport is the only international Airport in the country, the suspected air passengers are checked against the list of individuals maintained in the List of the Immigration Office of the Airport. The Border Land Immigration Check Posts keep the list of the individuals prepared and forwarded by the Home Ministry of His Majesty's Government of Nepal from time to time on the basis of the information received from the 1267 Committee. These immigration check point lack the infrastructure for maintaining a computerized updated list for want of computer facilities and trained manpower and the sufficient resources required for this.

So far the immigration offices have not found any individuals contained in the list coming to Nepal through its various immigration check points.

The Department of Immigration keeps a vigilance on the movement of the suspected individuals through the network of immigration check points in the country. Similarly, other security agencies viz: Nepal Police, the Armed Police, the Department of National Intelligence and the Regional Administration Office monitor the movement and activities of the suspected terrorists through the network of their zonal, district and area level offices.

As Nepal is currently beset with the menace of entrenched internal terrorism, the existence of open border the country has with its neighbours poses additional burden to the country in combating the possible infiltration of the suspected terrorists into the kingdom.

The Ministry of foreign Affairs, HMG/N has instructed all the diplomatic Missions and the Consulates abroad to maintain an updated list of the individuals/entities contained in the 1267 Committee List and to vet carefully about the suspected individuals while issuing visas to the foreigners planning to visit Nepal. Visa issuing authorities in the Missions abroad as well as the immigration offices inside Nepal have not identified any visa applicant whose name appears on the List.

4. Arms Embargo

The Sections 3, 4 and 5 of the 'Arms and Ammunition Act, 1963' strictly prohibit the production, possession and sale of any kind of weapons (including any kind of machine gun, artillery gun and mortar, rifle, pistol, revolver, mines and grenade, fog signal, fuse, gun powder, detonator, cartridge and other weapons as defined by the act) without license. Similarly, no one is entitled to buy such weapons without license within the country or outside the country under the provision of the section 1 and 3 of the same act. Any person who commits such crime may face 7 years of imprisonment and financial penalty.

The Terrorism and Disruptive Activities (Control and Punishment) Act, 2002 clearly defines 'any acts like the production, distribution, accumulation, peddling import and export, marketing or possession or installation or any kind of arms and ammunition or bombs or explosive substances, poisonous substances or any assistance in this connection, aimed at creating and spreading fear and terror in public life as an act of terrorism. The Act also prohibits the recruitment to terrorist groups. Those who commit such crimes are subject to severe punishment (up to life imprisonment).

Thus, the prevailing laws of the country stringently prohibit the acquisition, transfer, sale, import, export and use of conventional arms and the weapons of mass destruction by any individuals including Usama Bin Laden, members of Al-Qaida organizations and the Taliban and other individuals, groups, undertakings and entities associated with them without the permission received from the Government.

5. Assistance and Conclusion

Nepal is committed to combat the menace of terrorism in all its forms and manifestations. Internally, Nepal has been confronted with the violence of Maoist terrorists for more than 7 years. Nepal has shown zero tolerance to any terrorist activity, committed in whatever forms and manifestations. Nepal has fulfilled its reporting obligations emanating from the Security Council Resolution 1373 (2001) by timely submission of the reports to the Counter Terrorism Committee.

The border immigration check points in Nepal lack appropriate infrastructures for maintaining a network of computerized information system to regularly monitor the movement of suspected individuals within the territory of Nepal. Computerized information facilities and the necessary training for the immigration officials would help to better monitor the movement and other activities of suspected terrorists who come in and go out of the territory of the Kingdom of Nepal. His Majesty's Government is trying its best to comply with the provisions of various international resolutions/commitments through the utilization of its scarce resources. Nepal appreciates any assistance in upgrading such facilities with a view to implementing the various resolutions of the United Nations.